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10/821,310	04/08/2004	Kallop Bera	8549/ETCH/DRIE/JB1	9721
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PATTERSON & SHERIDAN, LLP Appm/NJ			EXAMINER	
APPLIED MATERIALS INC			ZERVIGON, RUDY	
3040 Post Oak Boulevard			ART UNIT	PAPER NUMBER
SUITE 1500				1792
Houston, TX 77056-6582				
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			05/06/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KALLOL BERA,
KEEYEOP CHAE,
HAMID TAVASSOLI and
YAN YE

Application No. 10/821,310
Technology Center 1792

Mailed: May 6, 2009

Before DELORES LOWE, *Review Team Paralegal*
LOWE, *Review Team Paralegal.*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on April 15, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

On May 21, 2007, appellants filed an Appeal Brief under 37 CFR § 41.37. A review of the file reveals that the “Summary of Claimed Subject Matter,” as required by 41.37(c)(1)(v), is not properly set forth. 37 CFR § 41.37(c)(1)(v) which states:

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

The independent claims must be mapped to the disclosure, including specification page and line number, and, if applicable, drawing reference characters.

Correction is required. MPEP § 1205.03 states:

When the Office holds the brief to be defective solely due to appellant's failure to provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), an entire new brief need not, and should not, be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office's requirement will result in dismissal of the appeal. See MPEP § 1215.04 and §711.02(b).

In addition, an Information Disclosure Statement (IDS) was filed on February 28, 2008. A review of the Image File Wrapper reveals that the examiner has not considered the IDS. According to MPEP § 609 which states:

“. . . The Examiner must also fill in his or her name and the date the information was considered in blocks at the bottom of the PTO-1449 or PTO/SB/08A and 08B form.”

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) hold the Appeal Brief of May 21, 2007 defective;
- 2) notify applicants to file a paper providing a summary of the claimed subject matter as required by 37 CFR § 41.37(c)(1)(v);
- 3) consider the paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v);
- 4) for consideration of the IDS filed on February 28, 2008; and
- 5) for such further action as may be appropriate.

Application No. 10/821,310

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797

/DAL/

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